**HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Writ Petition No. 1026 (S/S)2003
Old no. 27933 of 1996

Sri Mahesh Chandra Upadhyay
S/o Sri Kirti Ballabh Upadhyay,
Resident of village Bauda (Askot),
P.O. Askot, district Pithoragarh. ---- Petitioner.

Versus

1. The Union of India, through the Home Secretary,
   Govt. of India, New Delhi,
2. The Director General,
   Bharat Tibbat Sima Police, New Delhi,
3. The Commandant Base Hospital,
   Indo Tibetan Police,
   Ministry of Home Affairs,
   Govt. of India, P.O. Madangir,
   New Dehli-62
4. The Varistha Prashasan Adhikari (Abhiyojan),
   Bhart Tibbat Sima Police,
   G-A Purvi Khand, R.K. Puram,
   New Delhi-66. ----Respondents.

Sri M.C. Kandpal, learned Sr. counsel for the petitioner.
Sri Vikas Pandey, learned Standing Counsel for Union of India/respondents.

**Hon'ble M.M. Ghildiyal, J.**

Heard Sri M.C. Kandpal, learned Senior Counsel assisted by Sri S.S. Chaudhary, Adv. for the petitioner and Sri Vikas Pandey, learned Standing Counsel for Union of India/respondents.

2. This writ petition has been filed by the petitioner for the following reliefs:-

a. To issue a writ of mandamus or order or direction in the nature of mandamus commanding and directing the respondents to grant the pension and other benefits to the petitioner;

b. To issue a writ of mandamus or order or direction in the nature of mandamus commanding and directing the respondents to grant the terminal gratuity and service gratuity;

c. To issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case;

d. To award costs of this petition to the petitioner.

3. Submission of the learned counsel for the petitioner is that he was recruited as Constable in Indo Tibetan Border Police on 05.12.1990. In the month of August 1995, the petitioner suffered with a disease known as Schizophernia Psychosis and was admitted to various hospitals of Indo Tibetan Border Police by the Department. On 28.08.1995, the petitioner was declared unfit for service in Indo Tibetan Border Police on the recommendations of the Medical Board and was given opportunity to apply for review against the opinion of the Medical Board, if in case he has any objection against the opinion of the Medical Board. On 20 the September 1995, the petitioner preferred objections which were rejected by the Board vide its order dated 26.09.1995. The petitioner, thereafter, was discharged from service on medical ground w.e.f. 26.09.1995, by the Commandant Base Hospital, Indo Tibetan Border Police.

4. Submission of the learned counsel for the petitioner is that though he has served with the Indo Tibetan Border Police as Constable for 4 years 9 months and 23 days but he has not been paid pensionery benefit.

5. A counter affidavit has been filed by the respondents stating therein that the petitioner's case is an old case of Schizophernia Psychosis and he had taken treatment for the same from various hospitals like ITBP, RML hospital, Safdarjung hospital, Mental hospital Bareilly etc. The petitioner was employed as Constable/Nursing Orderly in Indo Tibetan Border Police to look after the patients admitted in the hospital and to give them medicines in doses as prescribed by the doctor. Since the petitioner was suffering from the aforesaid disease, which has a tendency to relapse, and even after giving him prolong treatment again and again the problem was relapsing and in future also episodes could not be ruled out. Consequently, the petitioner was discharged from service on medical ground w.e.f. 26.09.1995.

6. It is admitted fact to the parties that for awarding the pension, the qualifying service of 10 years is required under the Indo Tibetan Border Police Services Rules, which the petitioner has not completed.

7. For the reasons recorded above, I do not find any merit in the present writ petition. The petition is devoid of merits and is dismissed as such. No order as to costs.

**(M.M. Ghildiyal, J.)**

June 14,2006:
NCM: